



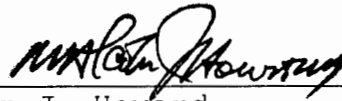
contained in each return is the understatement of the defendant's tax liability.

Federal Rule of Criminal Procedure 7(c)(1) provides that an indictment "shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged." "To pass constitutional muster, an indictment must (1) indicate the elements of the offense and fairly inform the defendant of the exact charges and (2) enable the defendant to plead double jeopardy in subsequent prosecution for the same offense." United States v. Williams, 152 F.3d 294, 299 (4th Cir. 1998); accord Hamling v. United States, 418 U.S. 87, 117 (1974). Ordinarily, an indictment that tracks the statutory language is sufficient, as long as it is accompanied by a statement of facts and circumstances that will inform the accused of the charges against him. Hamling, 418 U.S. at 117-118.

Having carefully reviewed the matter, the court finds that counts eleven and twelve of the indictment indicate the elements of the offenses charged and inform defendant of the charges against him. The indictment also enables the defendant to plead double jeopardy. Defendant's attempt to speculate about the government's theory of guilt and the truth or falsity of those theories is not appropriate on a motion to dismiss. Finding the

indictment to be sufficient as to counts eleven and twelve, the court hereby DENIES the motion to dismiss [DE #47].

This 14<sup>th</sup> day of May 2013.



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Malcolm J. Howard  
Senior United States District Judge

At Greenville, NC  
#26